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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,111	07/30/2003	Otis G. Peterson	S-100,643	8327

35068 7590 04/26/2004

UNIVERSITY OF CALIFORNIA  
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EXAMINER

BEHREND, HARVEY E

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/630,111

Applicant(s)

PETERSON, OTIS G.

Examiner

Harvey E. Behrend

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-29 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-28, drawn to an apparatus, classified in class 376, subclass 367.
  - II. Claim 29, drawn to a method, classified in class 376, subclass 244.

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process such as a process wherein a material other than hydrogen or hydrogen gas (such as beryllium, water, organics or graphite) is utilized as moderator material.

2. Upon election of one of the inventions identified above as I-II, applicant is further required under 35 USC 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, no claim is generic):

- A. Wherein the hydrogen atmosphere or hydrogen isotope component of the hydride, is essentially hydrogen (protium) only.

- B. Wherein the hydrogen atmosphere or hydrogen isotope component of the hydride, is essentially a mixture of deuterium and protium.

3. Upon election of one of the inventions identified above as I-II, applicant is further required under 35 USC 121 to elect a single specie of coolant material (e.g. liquid sodium only, or, liquid potassium only, or, helium only, or helium and argon only, etc.)

for purposes of examination. This is to facilitate examining due to the broad range of materials disclosed and claimed as being suitable (e.g. see claims 4, 6, 7, and, the specification on pages 10, 11).

4. Upon election of one of the inventions identified above as I-II, applicant is further required under 35 USC 121 to elect a single specie of fissile and fertile (if any) isotopes present (e.g. U-235 only, Pu-239 only, U-235 and U-238 only, Pu 239 and U-238 only, etc.) for purposes of examination. This is to facilitate examining due to the broad range of fissile and fertile isotopes and combinations thereof, disclosed and claimed as being suitable (e.g. see claims 25-28).

5. Applicant is advised that a response to this requirement must include and identification of each species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a generic claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the

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case. In either instance, if the examiner finds one the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103 of the other invention.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harvey Behrend whose telephone number is (703) 305-1831. The examiner can normally be reached on Tuesday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Michael Carone, can be reached on (703) 306-4198. The fax phone number for the organization where this application or processing is assigned is (703) 306-4195.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-1113.

A handwritten signature in black ink, appearing to read 'H. Behrend', enclosed within a large, loopy oval shape.

HARVEY E. BEHREND  
PRIMARY EXAMINER

Behrend/vs  
March 24, 2004